

SENATE BILL REPORT

SB 6117

As Reported by Senate Committee On:
Human Services & Corrections, January 24, 2018

Title: An act relating to revising conditions under which juvenile court records may be sealed.

Brief Description: Revising conditions under which juvenile court records may be sealed.

Sponsors: Senators Darneille and Kuderer.

Brief History:

Committee Activity: Human Services & Corrections: 1/08/18, 1/24/18 [DPS].

Brief Summary of First Substitute Bill

- Eliminates contests to regular sealing hearings for juvenile court records and fact-finding related to whether the respondent has completed the terms and conditions of disposition.
- Exempts dismissals of deferred dispositions from a requirement that juvenile court records be immediately sealed upon acquittal or dismissal with prejudice.
- Requires the clerk of court to notify a juvenile when sealing is denied due solely to lack of payment of restitution and requires the court to seal the record if the juvenile provides proof of payment at a later date.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6117 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Chair; Dhingra, Vice Chair; O'Ban, Ranking Member; Carlyle, Frockt, Miloscia and Walsh.

Staff: Kevin Black (786-7747)

Background: Juvenile court records are open to public inspection, unless sealed. Since 2014, a juvenile court must schedule a sealing hearing at a juvenile's disposition hearing, to take place upon the juvenile's 18th birthday, anticipated completion of probation, or

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anticipated release from confinement, whichever is later. The court must hold a contested sealing hearing if the court receives an objection to sealing, or the court notes a compelling reason not to seal. Juvenile offenses are eligible for sealing if they are not most serious offenses, sex offenses, or drug offenses, excluding possession of a controlled substance or forged prescription. The court must find that the person has completed the full terms and conditions of the disposition, including affirmative conditions, and has paid full restitution to any individual victim.

If not subject to regular sealing, a juvenile court record may be vacated and sealed by motion, provided that if the person was charged with a class A felony, the person must meet certain requirements, including spending five consecutive years in the community without being convicted or adjudicated of a crime, not being required to register as a sex offender, and payment of full restitution. Sealing by motion is not available to a person convicted of rape 1, rape 2, or indecent liberties with forcible compulsion.

Adjudication of a juvenile offense or crime subsequent to sealing, or the charging of an adult felony, has the effect of nullifying a sealing order.

Serious violent offenses include murder 1, murder 2, homicide by abuse, manslaughter 1, assault 1, kidnapping 1, rape 1, assault of a child 1, and attempts, criminal solicitations, and criminal conspiracies to commit one of these felonies.

Summary of Bill (First Substitute): Superior court must hold regular sealing hearings for juvenile court records related to eligible offenses. At the sealing hearing, the court must enter a written sealing order if the court finds that the juvenile is no longer on supervision in the case to be sealed and has paid the full restitution amount owing to the individual victim named in the restitution order. Exceptions allowing for a contested sealing hearing if the court receives an objection to sealing or the court notes a compelling reason not to seal are eliminated. The court must take judicial notice of court records when determining whether the respondent remains on supervision. If the court finds the juvenile remains on supervision but has paid the full amount of restitution to the individual victim, the court must continue the sealing hearing until supervision is completed. If the court denies sealing based solely on unpaid restitution, the court must specify the unpaid amount in a written order and the clerk of the court must notify the juvenile at the juvenile's last known address. If the juvenile contacts the court at any later time and provides proof of payment of restitution, requests the record be sealed, and the court finds that restitution is paid, the court must seal the juvenile court record.

Dismissals of deferred dispositions are exempted from the requirement that juvenile court records must be immediately sealed upon acquittal or upon dismissal of the charges with prejudice.

Juvenile court records of eligible persons may be sealed by motion, but not vacated by the court prior to sealing.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (First Substitute):

- Removes provisions expanding offenses prohibited from sealing to include all serious violent offenses, while allowing judicial discretion to seal these records if the offender has spent ten years without conviction and the court finds that sealing is in the best interest of the community.
- Requires the clerk of court to notify the juvenile at last known address when records are not sealed due solely to nonpayment of restitution, and directs the court to seal the records later at any time if the juvenile provides proof of restitution payment.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: I have learned that contested sealing hearings are common in some areas of the state. Although they were intended to be administrative hearings, some jurisdictions are having mini-trials on how well the juvenile did on supervision. Juveniles who violate terms of supervision have already had the opportunity to be punished for those violations. When the juvenile turns 18 and is no longer on supervision, there is no reason not to seal unless there is still restitution owed to an individual victim. There is also no reason to set an administrative hearing if the case is not eligible for administrative sealing. We want all offenses to be eligible for sealing, but to give the judge discretion and impose delay for the most serious offenses.

Persons Testifying: PRO: Todd Dowell, WA Assn. of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: No one.